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Examiner Leigh C. Maier

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Application No. 10/069,913

OFFICIAL NON-FINAL RESPONSE

Number of Pages: (including cover page)

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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

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Appl. No.: 10/069,913 Confirmation No.: 7074
Applicant(s): Collic-Jouault et al.
Filed: 02/28/2002
Art Unit: 1623
Examiner: Leigh C. Maier
Title: USE OF A LOW MOLECULAR WEIGHT SULPHATED POLYSACCHARIDE
TO OBTAIN A MEDICINE WITH ANTITHROMBOTIC ACTIVITY

Docket No.: 033339/244859
Customer No.: 00826

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

RESPONSE

Sir:

In response to the Communication dated December 29, 2003, reconsideration by the Examiner is respectfully requested.

In the Official Action, the Examiner has taken the position that the original claims were directed to a method of preparing a medicinal product, and that the claims as presented in the previous amendment have been amended in such a way that they are now directed to an invention that is independent or distinct from the invention originally claimed.

We submit that the Examiner is mistaken in holding that the original claims were directed to a method of preparing a medicinal product. The claims as originally filed were "use claims" and not method claims. They were written in such a way as to be proper under European practice (Swiss-type claims) because therapeutic treatments are not patentable in the form of method claims according to European practice. Because this type of claim is not acceptable under United States practice, the claims were amended to recite a method of treatment, which is acceptable under United States practice.

However, the subject matter of the claimed invention has not changed, and the present claims are directed to the same technical feature as the originally-submitted use claims.

It should be noted that since the present application is a Section 371 application based upon a PCT application, the PCT unity of invention standards are applicable. Since the present

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Filed: February 28, 2002
Page 2

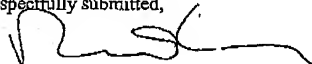
claims are directed to the same technical feature as the originally-submitted use claims, there is no basis for the Examiner to hold that there is a lack of unity of invention and that a constructive election has occurred.

In order to substantiate an election or restriction requirement, the Examiner must provide a proper basis for such a requirement. The Official Action gives no reasons or analysis to substantiate a lack of unity of invention. Therefore, the holding of constructive election is without any proper basis, and should be withdrawn.

For the reasons noted, Applicants request the Examiner to vacate the previous Official Action and to issue an action on the merits of Claims 1-12 as now presented.

It is not believed that extensions of time or fees for net addition of claims are required, beyond those that may otherwise be provided for in documents accompanying this paper. However, in the event that additional extensions of time are necessary to allow consideration of this paper, such extensions are hereby petitioned under 37 CFR § 1.136(a), and any fee required therefore (including fees for net addition of claims) is hereby authorized to be charged to Deposit Account No. 16-0605.

Respectfully submitted,

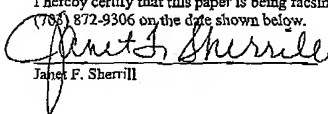


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Janet F. Sherrill

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